



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,637	03/19/2004	Michael E. Shirk	18030BI	7748

23307 7590 06/29/2005

SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 191072950

EXAMINER

HARVEY, JAMES R

ART UNIT PAPER NUMBER

2833

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/804,637	SHIRK ET AL.	
	Examiner	Art Unit	
	James R. Harvey	2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4-4-05 (election).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

- Applicant's election with traverse of (claims 1-5 and 12: Species 2 (figures 3A-3C and 4) is acknowledged. The traversal is on the ground(s) that the election requirement may lack technical sufficiency. This is not found persuasive because applicant's shows unique structure in the other species that is seen to be patentably distinct from the elected species.
- Claims 6-11 are withdrawn from further consideration as being drawn to a non-elected species.
- The requirement is still deemed proper and is therefore made FINAL.

Drawings

- The drawings are objected to because the cross-hatching is improper. See MPEP 608.02.

For example, portions of the drawings in section and made of an insulated material must be crosshatched with alternating thick and thin lines, not with just thin lines.

- The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

-- In reference to Claim(s) 5, the recitation "reentrant surfaces" is not given an element numeral in the specification in order for the public to be made aware of meets and bounds of what structure constitutes a "reentrant surface".

-- The above feature(s) must be shown or the feature canceled from the claim. No new matter should be entered.

- **Please note that drawing corrections will no longer be held in abeyance. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.**

Claim Objections

- The following claims are objected to because of the following informalities:
 - In reference to Claim(s) 3, the recitation “centrally of the face” is vague and indefinite. For purposes of examination, it is assumed that the language is intended to mean symmetrically about the face. An examination based on the merits, as best understood, is addressed below.
 - In reference to Claim(s) 4, the recitation “having defining” is redundant.
 - In reference to Claim(s) 5, the recitation “reentrant surfaces” is not given an element numeral in the specification in order for the public to be made aware of meets and bounds of what structure constitutes a “reentrant surface”. For purposes of examination, it is assumed that the language is intended to mean any surface that can interface with another surface. An examination based on the merits, as best understood, is addressed below.
 - Appropriate response to the above is required.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

Art Unit: 2833

international application designated the United States and was published under Article 21(2) of such treaty in the English language.

** Claim(s) 1, 4, 5 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Togami et al. (6439918).

-- In reference to Claim(s) 1 and 12, Togami shows (cover sheet)

a receptacle 116 having a latch tab 118 defining an opening below the latch tab; and

a pluggable module 102 having:

a housing 106 having a face (near the lead line of numeral 113) and a side (near the lead line of numeral 127) transverse to the face,

the housing having a latching member 122 that extends from the side and is sized for receipt in the opening defined by ~~in~~ the latch tab 118, the housing 106 defining a slot 123 extending adjacent the latching member 122;

an actuator 110 mounted in the slot 123 and slidable in a longitudinal (vertical) direction; a lever 108 pivotable about a pivot pin 126 having an axis transverse (horizontal) to the longitudinal direction; and a cam 107 provided on the pivot pin 126, the cam 107 having a curved cam surface;

wherein pivoting of the lever 108 about the axis causes the cam surface to impinge upon the actuator 110 to impart sliding motion in the vertical direction (figures 9A and 9B) thereto.

The meaning of "longitudinal direction" is not set forth in the claims and is thus deemed to be so broad that it is met by the applied reference showing a length from a lower surface to an upper surface (see the attached definition from The American heritage Dictionary).

In particular reference to the recitations "to cause the latch tab to release the latch member" is seen to be for the intended use of the claimed structure and is given little patentable weight, since it has been held a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Further, the claim language is not seen to claim any structure that would inhibit the reference from being used for the same purpose as the intended use recitations of the claim.

-- In reference to Claim(s) 4, Togami shows (cover sheet) the housing has a mounting boss 122 having defining guide rails 123, the actuator 110 has latch tabs 112 defining complementary surfaces for latching to the guide rails 123.

-- In reference to Claim(s) 5, Togami shows (cover sheet) the guide rails 123 define reentrant surfaces (concave surface), and the latch tabs 112 define complementary reentrant surfaces (convex surfaces) for latching to the guide rails 123.

Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

** Claim(s) 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togami.

Art Unit: 2833

-- In reference to Claim(s) 2, Togami shows substantially the invention as claimed. However, does not show the lever is T-shaped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to choose the shape of the lever to be T-shaped, since applicant has not presented any explanation that this particular shape is anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing a mating surface between two parts. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976). One skilled in the art would have been motivated in order to save on material costs or reduce the weight associated with the U-shaped handle of Togami because the T-shape only has one vertical column member and the U-shape handle requires two vertical column members.

-- In reference to Claim(s) 3, Togami shows (cover sheet) the lever 108 is mounted to the housing 106 symmetrically with respect to the face.

Conclusion

- The prior art listed on PTO form 892 that is made of record and not relied upon is considered pertinent to applicant's disclosure because it shows the state of the art with respect to applicant's claimed invention.
- Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Harvey whose telephone number is 571-272-2007. If attempts to

Art Unit: 2833

reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 extension 33.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James R. Harvey, Examiner

jrh

June 27, 2005

